

In The Matter of Certificate of Service No.: E-58585  
Issued to: DENNIS CROWLEY

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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DENNIS CROWLEY

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 3 November, 1949, an Examiner of the United States Coast Guard at New York City revoked Certificate of Service No. E-58585 issued to Dennis Crowley upon finding him guilty of "misconduct" based upon a specification alleging in substance, that while serving as bedroom steward on board the American S. S. MARINE FLASHER, under authority of the document above described, on or about 27 May, 1948, he assaulted and battered one J. L. Patterson, a crew member, while said vessel was at New York City; and upon finding him guilty of "incompetence" based upon a specification alleging that Appellant was, while serving as above during the course of the voyage which ended on 27 May, 1948, and is now, physically incompetent for sea service by reason of addiction to narcotics.

Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. A plea of "not guilty" was entered, by the Examiner, to the charges and specifications since the hearing was conducted "in absentia" on the first day. The Investigating Officer made his opening statement, then he introduced in evidence, the testimony of the person allegedly assaulted by Appellant and three documentary exhibits.

In defense, Appellant testified, under oath, in his own behalf.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant, the Examiner found the charges "proved" by proof of both specifications, and entered an order revoking Certificate of Service No. E-58585 and all other valid licenses, documents and certificates of service held by Appellant.

This appeal is a request for clemency based on Appellant's statement that he is no longer a narcotics addict; he will never again use drugs; and going to sea is his only livelihood. Appellant requests that a suspension for a definite length of time be substituted for the order of revocation.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On the voyage covering the date of 27 May, 1948, Appellant was serving as a bedroom steward on board the American S.S. MARINE FLASHER, acting under authority of Certificate of Service No. E-58585. At 1700 on 26 May, 1948, the MARINE FLASHER docked at Pier 60, North River, New York, after completion of a foreign voyage, and remained at this location throughout the following day. During this voyage, there had been some hard feelings between Appellant and the person allegedly assaulted, Patterson, because Appellant had been given Patterson's former job on the ship.

At about 1000 on 27 May, 1948, Patterson and two crew members were in room B-36, aboard the vessel, drinking beer when Appellant entered the room. After a brief exchange of words, Appellant hit Patterson on the left side of his face. The nurse aboard the ship was summoned and she arranged for Patterson's removal to the hospital. Patterson remained in the hospital for approximately one month. He was so severely injured by Appellant that the left side of his face is still partially paralyzed.

On this same voyage of the MARINE FLASHER, Appellant had in his possession a hypodermic needle and an eye-dropper which he used to inject a narcotic, heroin, into his arm.

Patterson was the only witness who testified against Appellant. Although he saw Appellant with the hypodermic needle and eye-dropper on several occasions, he did not at any time see Appellant when the eyedropper had a fluid in it or see Appellant inject the narcotic. Patterson did see Appellant when he was "high" from the effect of the narcotic. At such times, his eyes were bright, glassy and wild-looking; and the pupils contracted to the size of pin points. When under the influence of the dope, Appellant was "bouncy" and belligerent.

It was stipulated that on a subsequent voyage of the MARINE FLASHER, Appellant approached the ship's nurse and asked her for a hypodermic needle. He did not state the purpose for which he wanted the needle and the nurse refused to give it to him.

On 2 December, 1948, Appellant was apprehended in a room in New York City with a hypodermic needle and a quantity of heroin in his possession. Subsequently, he pleaded guilty to the charge and was sentenced to sixty days. This arrest and conviction are conclusively established by two of the documentary exhibits received in evidence: an extract from the City Magistrate's Court Docket of the City of New York and an extract from the Minutes of the Court of Special Sessions of the City of New York.

Between the time of his release from jail in February, 1949, and October, 1949, Appellant spent about five months in a hospital taking a "cure" for drug addiction. During this period, he was unable to get drugs. Appellant admitted this and also that he used drugs as late as May, 1949.

On 19 October, 1949, during the course of the hearing in this proceeding, Appellant was examined at the United States Marine Hospital, Ellis Island, New York. The results of this examination are shown in the third documentary exhibit received in evidence. This report states that

Appellant was a heroin addict in the past but that there is insufficient evidence for conclusions about the present existence of addiction. The report further states that although there is no evidence of recent injections, Appellant has a discolored vein which indicates repeated intravenous injections in the past. There were no facilities available at the hospital for testing blood and urine for opiates.

Appellant's prior disciplinary record with the Coast Guard shows that his certificate of service was suspended for one month in 1943 for being absent without leave from the S. S. SYLVESTER GARDINER.

### OPINION

This appeal has been taken from the order of revocation which followed the Examiner's finding that Appellant was guilty of two charges: misconduct and incompetence. Each of the charges is supported by a single specification.

Appellant does not deny the allegations set out in the specification pertaining to the charge of misconduct. He admits striking Patterson on the morning of 27 May, 1948, but contends that there was just provocation for the attack. It appears from the record that unfriendly words were exchanged between Patterson and Appellant during the course of the voyage as well as just prior to the attack. But such verbal abuses have never been considered sufficient justification for beating another person to such an extent that he must be hospitalized for a month because injuries of a permanent nature have been inflicted. Hence, that part of the order attributable to this offense is not considered to be excessive.

The more serious charge is that of incompetence based upon a specification alleging that Appellant is not physically fit for sea duty because of his addiction to narcotics. Appellant denies that he is now an addict and states that he will never again use drugs.

Patterson, the man assaulted by Appellant, was the only witness to testify against Appellant on the charge of narcotics addiction. Although Patterson might well have been prejudiced in his testimony, it is established by Appellant's own admissions that he has habitually used drugs in the past and that he has ready access to a source of supply of narcotics. Appellant testified that he had been a drug addict at one time (R.53) and that when he gets in the wrong environment he takes a shot "just like taking a drink of whiskey only it is much more." (R.56) He further testified that his last "shot" was in May, 1949, and that since that time he has been in the hospital for five months taking a "cure." (R.53) Appellant stated that he could get drugs in a week if he wanted them (R.53) but that while he was taking the "cure" he was kept away from drugs. (R.54)

The medical report states that Appellant definitely was a drug addict in the past but the report is non-committal with respect to any present addiction. This report, considered together with Appellant's conviction in December, 1948, and his own admission that he was using drugs in May, 1949, leads to the logical conclusion that Appellant's addiction continued up to the time he underwent the "cure" for five months. Since the hearing preceding this appeal was commenced in

October, 1949, this indicates that there had not been a lapse of sufficient time to determine whether Appellant had been effectively cured of his drug addiction at the time the medical report was obtained.

It has been repeatedly stated in my decisions that there is no greater single threat to the safety of a vessel and its personnel than a person under the influence of narcotics. Hence, a drug addict is obviously physically unfit for sea duty on American merchant vessels. Appellant's past record is ample basis for assuming that he is still a slave to the habitual use of narcotics. There is no proof to the contrary contained in the record. A possible recurrence at sea of a practice so dangerous to life and property cannot be risked in view of the statutory duty of the Coast Guard to protect American ships, personnel and cargo against infringements of discipline which would probably result in personal and property damage.

### CONCLUSION

Since Appellant has failed to refute the proof of his addiction to drugs, the order of the Examiner must be sustained.

### ORDER

The order of the Examiner dated 3 November, 1949, should be, and it is, AFFIRMED.

Merlin O'Neill  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D.C., This 6th day of March, 1950.